



SENATE BILL 1337: UST Operator Training Program

2009-2010 General Assembly

Committee:		Date:	July 16, 2010
Introduced by:	Sen. Davis	Prepared by:	Jennifer McGinnis
Analysis of:	Ratified		Staff Attorney

SUMMARY: *Senate Bill 1337 would create training requirements for operators of regulated underground storage tank (UST) systems,¹ in order to comply with provisions of the federal Energy Policy Act of 2005. Specifically, the bill requires that: (i) primary and emergency response operators be designated for USTs; (ii) the Department of Environment and Natural Resources (DENR) design and implement a training program for primary and emergency response operators; and (iii) current operators be trained by August 8, 2012. The bill would also delete the deductible requirement that is applicable to cleanup costs being reimbursed from the Noncommercial UST Trust Fund.*

Senate Bill 1337 is a recommendation of the Environmental Review Commission.

CURRENT LAW:

The General Assembly established the UST program within DENR in 1985 in response to a federal mandate to regulate USTs. The State's UST program enforces the federal regulatory standards for commercial USTs, oversees site cleanup of UST incidents, and manages operations for the Commercial and Noncommercial Leaking Petroleum UST Trust Funds. Federal funding for USTs comes from the Leaking UST Trust Fund in the form of a cooperative agreement grant for cleaning up leaking tanks and a grant for administering the regulation of commercial tanks. The United States Environmental Protection Agency distributes grant funds based on a formula that considers minimum distribution amounts, state need, and program performance. In FY 2008-09, the State's UST program received \$2.6 million in federal grants, which were used to support program administration.

The federal Energy Policy Act of 2005 requires that states which receive federal funding for UST programs implement a training program for operators of USTs on proper operation and maintenance. Under the Act, training of current operators must be completed by August 8, 2012.

BILL ANALYSIS: Senate Bill 1337 would require that:

- UST system owners designate a primary operator for the UST system.
- A primary operator must designate one or more emergency response operators for the system. If the emergency response operator is not present at the facility at all times during which a regulated substance is being withdrawn from, or is capable of being withdrawn from, the UST system, the

¹ A tank (or a combination of tanks) and connected piping having at least 10% of their combined volume underground. The following types of tanks do not have to meet federal UST regulations: farm and residential tanks of 1,100 gallons or less capacity holding motor fuel used for noncommercial purposes; tanks storing heating oil used on the premises where it is stored; tanks on or above the floor of underground areas, such as basements or tunnels; tanks of 110 gallons or less capacity; and emergency spill and overfill tanks.

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facility must have an automated notification system in place that will alert the emergency response operator of an emergency or activated alarm at the facility. A person may act as both the primary operator and the emergency response operator for the system.

- DENR design and implement a training program for primary and emergency response operators.
 - The training program for primary operators must require that the operator demonstrate understanding and/or knowledge of a specified list of issues associated with the proper operation and maintenance of the UST system at the facility, principles of construction and safety, and regulatory requirements associated with the system. The training may consist of a combination of on-site evaluation and testing, as well as in-class or online instruction and testing. If an inspection at the facility reveals that the system is not in substantial compliance with certain requirements, the operator must be retrained.
 - The training program for emergency response operators must require that the operator demonstrate understanding and/or recognition of: the facility's system, and the location and proper operation of the safety and emergency response equipment; actions to be taken in response to an emergency; leak detection alarms and preparations needed to respond to alarms before a release has occurred; unusual operating conditions, equipment failures, or environmental conditions that may indicate a release, and steps to take in response to a suspected release; and immediate steps to take in response to a confirmed release in order to stop further release and to contain spills before they reach the environment.
- By August 8, 2012, DENR train primary operators, and primary operators train their emergency response operators. (Operators designated after August 8, 2012, would need to be trained within 30 days of assuming responsibilities for operations and maintenance of a UST).

The bill provides that a primary operator that has satisfactorily completed the training requirements at a facility that utilizes a UST system to store fuel solely for use by emergency power generators shall be deemed trained as the primary operator at another facility that has identical spill prevention, overfill prevention, release detection, corrosion protection, emergency response, and product compatibility requirements as the original facility.

Lastly, the bill deletes the 10% deductible that was previously applicable to cleanups from the Noncommercial UST Trust Fund and makes conforming changes to provide that eligibility for repayment under the Noncommercial UST Trust Fund is transferable from the current landowner to subsequent landowners without any requirement that the deductible requirements first be met.

EFFECTIVE DATE: The bill would be effective when it becomes law.

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